

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is added as a cosponsor.

If there are no amendments, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading; was read the third time, and passed.

The preamble was agreed to.

The joint resolution (Senate Joint Resolution 233), together with its preamble, is as follows:

S. J. RES. 233

To provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas Sudden Infant Death Syndrome is a recognized disease entity which kills at least 7,000 infants per annum in the United States;

Whereas the victims of Sudden Infant Death Syndrome are babies who appear healthy but who nonetheless die without warning while asleep;

Whereas Sudden Infant Death Syndrome knows no boundaries of race, ethnic group, region, class or country;

Whereas Sudden Infant Death Syndrome is the leading killer of infants between the age of one week and one year;

Whereas Sudden Infant Death Syndrome annually kills more infants than cystic fibrosis, cancer, heart disease and child abuse combined;

Whereas research is underway throughout the world to identify the causes and process of this syndrome and to treat infants who can be identified as potential victims;

Whereas the parents and siblings of Sudden Infant Death Syndrome victims often suffer added anguish because many people are unaware of the existence of the pernicious killer; and

Whereas an increase in the national awareness of the problem of Sudden Infant Death Syndrome may ease the burden of the families of victims and may stimulate interest in increased research for the causes and the cure of Sudden Infant Death Syndrome: Now, therefore be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the week beginning October 1, 1982, is designated as "National Sudden Infant Death Syndrome Awareness Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. BAKER. Mr. President, I have a number of items that are cleared for action by unanimous consent on this side. May I inquire of the minority leader if he is in position to proceed on items that I believe have been brought to his attention?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the Chair.

FEDERAL COMMUNICATIONS ACT AMENDMENTS—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 3239 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, August 19, 1982.)

Mr. GOLDWATER. Mr. President, I rise in support of the conference report on H.R. 3239, a bill that contains amendments to the Communications Act of 1934 to facilitate the provision of amateur radio and private land mobile radio services. I first proposed similar provisions to the Senate in 1979. That year, along with Senators SCHMITT, PRESSLER, and STEVENS, I introduced S. 622, the "Telecommunications Competition and Deregulation Act of 1979." No action was taken on that bill. On April 8, 1981, I introduced S. 929, a more far-reaching bill to improve the administration of these communications services. S. 929 was cosponsored by Senators PACKWOOD, SCHMITT, PRESSLER, STEVENS, CANNON, HOLLINGS, and INOUÉ. The Committee on Commerce, Science, and Transportation reported that bill with amendments on September 18, 1982 and it passed the Senate on September 25, 1981.

Mr. President, I have been continually frustrated by the failure of many in Congress to appreciate the important role that ham operators and private land radio users have in our national communications system. With the passage of H.R. 3239, I hope we have finally overcome this failure to grasp the importance of these services.

The contributions of the over 400,000 amateur radio operators nationwide to the welfare and safety of the United States, through the furnishing of public service communications, emergency communications, technical self-training, self-regulation and advancement of the modern radio and television arts are too well documented to require elaboration. Nonetheless, threats to the continuation of amateur radio's unblemished record of service to the public exist from a number of sources, including governmental fiscal restraints, unintentional

statutory restraints and problems arising from interference to home entertainment equipment through no fault of the amateur radio station. These problems can be easily solved at essentially no cost, and in most cases, the apparent solutions are actually cost-saving measures. Despite the simplicity and cost-saving aspects of these solutions, however, the need for them remains acute.

Amateur radio constitutes one of the best educational opportunities for America's youth and one of the most worthwhile pastimes for its elderly. The unavailability of Federal funds to administer this service need not and should not be permitted to preclude amateur radio involvement for the young or the elderly. Amateurs must be permitted, through voluntary efforts supervised by the FCC, to supply the services, including examinations, to those who would benefit from them, as funds are not available to supply these services any longer. In that regard, the FCC must insure that there are no conflicts of interest in the preparation and administration of amateur examinations and that no one is treated unfairly.

Judicial construction of statutory limitations have bound the hands of amateurs who would work together to identify intruders into the frequency bands used for amateur radio public service communications. It is imperative that amateurs be unfettered in their efforts to continue the cooperative self-regulation that has impressed regulatory authorities since the dawn of radio.

The problem of interference to television and other home entertainment equipment from transmitting equipment has plagued our citizens for years. Complaints are increasing at an exponential rate. This is not because of the transmitting equipment, but because of the need to incorporate inexpensive filtering mechanisms in home entertainment equipment. The need for better design now in such home entertainment equipment is critical to stem the tide of electromagnetic incompatibility now throughout our atmosphere and creating disputes among neighbors. The millions of purchasers of television and radio receivers and other electronic devices each year deserve and need protection from interference.

In addition, this bill contains a provision which will enable the FCC to eliminate licensing of citizens band radio (CB) and radio control (RC) services. The major purpose of this provision is to give the FCC the option of relaxing or virtually eliminating its regulation of operators in the RC and CB services. With respect to CB, licenses are available to virtually anyone who makes such a request. These licenses do not grant any special spectrum privileges, meaning that all CB licenses may use any of the 40 channels allocated to that service.

These same considerations apply to the RC service. I believe this is a necessary step, and one which will result in significant savings to everyone concerned.

Mr. President, I also want to emphasize the importance of private land mobile services to the Nation. These services are rapidly becoming an important tool for small businesses to use in operating more efficiently. Also, police, fire, emergency rescue services and other governmental services are heavy users of land mobile radio, as are the railroads and motor carriers. Public utilities depend upon land mobile radio to promptly restore utility service to the public. Other uses include heavy construction, fuel oil delivery, manufacturing, the petroleum industry, and the forest products industry.

At a time of governmental belt-tightening at all levels, this bill is timely. It provides a means of cutting costs, eliminating problems which have plagued a most worthy public service-oriented avocation, and yet actually permits an increase in the availability of services to amateur radio, the most self-regulated radio service in the United States. In an electronic age, it is critical to nurture an interest in technical experimentation and development. Amateur radio inherently fosters such an interest. This bill is necessary to insure continued growth of the service and its continued effectiveness as a source of public service involvement.

Mr. President, the amateur radio and land mobile provisions in this bill are far too important to allow them to not be enacted this year. The time for action is now and I therefore endorse this bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to. Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BOUNDARY OF CRATER LAKE NATIONAL PARK

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1119.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1119) entitled "An Act to correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That (a) the first section of the Act entitled, "An Act reserving from the public lands in the State of Oregon, as a

public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber, and all other natural objects therein, a tract of land herein described, and so forth", approved May 22, 1902 (32 Stat. 202), as amended, is further amended by revising the second sentence thereof to read as follows: "The boundary of the park shall encompass the lands, waters, and interests therein within the area generally depicted on the map entitled, 'Crater Lake National Park, Oregon', numbered 106-80-001-A, and dated March 1981, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior."

(b) Lands, water, and interests therein excluded from the boundary of Crater Lake National Park by subsection (a) are hereby made a part of the Rogue River National Forest, and the boundary of such national forest is revised accordingly.

(c) The Secretary of the Interior is authorized and directed to promptly instigate studies and investigations as to the status and trends of change of the water quality of Crater Lake, and to immediately implement such actions as may be necessary to assure the retention of the lake's natural pristine water quality. Within two years of the effective date of this provision, and biennially thereafter for a period of ten years, the Secretary shall report the results of such studies and investigations, and any implementation actions instigated, to the appropriate committees of the Congress.

SEC. 2. (a) In accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands in the Cumberland Island National Seashore, Georgia, which comprise about eight thousand eight hundred and forty acres, and which are depicted on the map entitled "Wilderness Plan, Cumberland Island National Seashore, Georgia", dated November 1981, and numbered 640-20038E, are hereby designated as wilderness and therefor, as components of the National Wilderness Preservation System. Certain other lands in the Seashore, which comprise about eleven thousand seven hundred and eighteen acres, and which are designated on such map as "Potential Wilderness", are, effective upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, designated wilderness. Such notice shall be published with respect to any tract within such eleven thousand seven hundred and eighteen acre area after the Secretary has determined that such uses have ceased on that tract. The map and a description of the boundaries of the areas designated by this section as wilderness shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of the Cumberland Island National Seashore.

(b) Within six months after the enactment of this Act, a map and a description of the boundaries of the Cumberland Island Wilderness shall be filed with the Energy and Natural Resources Committee of the United States Senate and with the Interior and Insular Affairs Committee of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map and description may be made.

(c) The wilderness area designated by this section shall be known as the Cumberland Island Wilderness. Subject to valid existing rights, the wilderness area shall be adminis-

tered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and where appropriate, any reference in that Act to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

Mr. MATTINGLY. Mr. President, it is with great pride that I rise to support S. 1119, which contains a provision establishing portions of Cumberland Island, Ga., as a wilderness area. Some sections of the island are being designated as potential wilderness and will remain so long as there are retained rights owners.

Cumberland Island is one of the many barrier islands along the southern Atlantic coast. Unlike so many of the islands, however, it is unspoiled by commercial development.

There are almost 20 miles of beautiful, untouched beaches. There are marshes, freshwater ponds, creeks, and forests that provide natural habitats for a host of plants and animals.

I cannot adequately describe the beauty of the island here on the Senate floor. Magazines such as National Geographic have attempted to capture the island in words and pictures. But none of these prepare the visitor for the full impact of Cumberland. It is a unique experience and I urge all Senators to one day visit this natural wonder.

The legislation before you today is the end product of more than 10 years of work. In 1972 Congress established the Cumberland Island National Seashore. Since that time, the Interior Department and the State of Georgia have acted to purchase much of the island.

The legislation will insure that the public will always have an unspoiled, natural Cumberland to visit. The provisions of the bill have been worked out carefully between private landowners, the Park Service, the State of Georgia, and other concerned groups. All deserve credit for the many days of hard work that went into passing the bill.

The legislation has already passed the House, where it was attached by Congressman BO GINN of Georgia to the Crater Lake bill sponsored by Senator HATFIELD. I would especially like to thank Senator HATFIELD for his patience in this matter, as he watched the Georgia amendment slow down passage of his bill.

I was joined by our distinguished senior Senator from Georgia, SAM NUNN, in introducing S. 2569. That bill was the Senate's vehicle for hearings and committee approval. This enabling bill, S. 2569, retained the Cumberland Island language that is in the bill, S. 1119, before you today. I am deeply indebted to my distinguished colleagues Senator WALLOP, Senator McCURE, and Senator JACKSON for

with hearing impairments while avoiding the possibility that the legislation will impair the development of new technology. Most importantly, this legislation directs the FCC to insure reasonable access to telephone service by persons with hearing impairments. This legislation is the first specific congressional guidance for the FCC to concern itself with the needs of the hearing impaired. Further, the bill:

First, directs the FCC to require the use of magnetic field/induction coils (or similar internal coupling systems) on coin-operated public phones;

Second, permits the FCC to impose similar requirements on phones frequently used by members of the public or provided for emergency use;

Third, permits the FCC to establish technical standards to insure compatibility between hearing aids and telephones;

Fourth, permits the FCC to require consumer information on the compatibility between hearing aids and telephones; and

Fifth, directs the FCC to consider the cost and benefits to both hearing impaired persons and nonhearing impaired persons in any rulemaking, to insure that their rules do not block the development of new technology, and to complete their initial rulemaking within 1 year.

This is excellent proconsumer legislation which addresses serious concerns of the hearing impaired and does so in a manner that does not impose unnecessary burdens on the industries affected. I appreciate the help of all concerned in making possible the unanimous approval of this legislation. I hope that our colleagues in the House of Representatives will act rapidly on this legislation.

FEDERAL COMMUNICATIONS ACT AMENDMENTS

Mr. BAKER. Madam President, I ask the Chair to lay before the Senate H.R. 3239, Calendar Order No. 166.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

Mr. ROBERT C. BYRD. Madam President, there is no objection on this side to proceeding to the consideration of this measure.

The Senate proceeded to consider the bill.

Mr. PACKWOOD. Madam President, I ask unanimous consent to have printed in the RECORD a statement that sets forth what is contained in H.R. 3239.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WHAT H.R. 3239 CONTAINS

A. S. 929/H.R. 5008

1. S. 929—Senator Goldwater's Amateur Radio and Land Mobile bill—a bill that passed the Senate in September, 1981.

2. H.R. 5008—A bill to amend the 1934 Communications Act to make technical, non-controversial changes. It also contains amateur radio and land mobile provisions which are virtually the same as those in S. 929. H.R. 5008 is awaiting House floor action. There is no disagreement between the two Houses on passing this legislation.

B. S. 2181/H.R. 6162

1. S. 2181 authorizes the National Telecommunications and Information Administration (NTIA) for 1 year (FY 1983) at a level of \$12.4 million. S. 2181 passed the Senate on June 9, 1982.

2. H.R. 6162 authorizes NTIA for 2 years (FY 1983 and FY 1984) at \$13.4 million and \$12.3 million, respectively. H.R. 6162 awaits floor action in the House.

3. The House has proposed that the conference authorize NTIA for 2 years (FY 1983 and FY 1984) at \$12.9 million and \$11.8 million, respectively.

UP AMENDMENT NO. 1250

Mr. BAKER. Madam President, I send an amendment to the desk in the nature of a substitute on behalf of the distinguished Senator from Oregon (Mr. PACKWOOD).

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. PACKWOOD, proposes an unprinted amendment numbered 1250.

Mr. BAKER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. (a) There is authorized to be appropriated for the administration of the National Telecommunications and Information Administration \$12,917,000 for fiscal year 1983, and \$11,800,000 for fiscal year 1984, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

(b)(1) The National Telecommunications and Information Administration shall conduct a comprehensive study of the long-range telecommunications and information goals of the United States, the specific telecommunications and information policies necessary to promote those goals and the strategies that will ensure that the United States achieves them. The Administration shall further conduct a review of the structures, procedures, and mechanisms which are utilized by the United States to develop international telecommunications and information policy.

(2) In any study or review conducted pursuant to this subsection, the Administration shall not make public information regarding usage or traffic patterns which would damage United States commercial interests. Any such study or review shall be limited to international telecommunications policies or to domestic telecommunications issues which affect such policies.

TITLE I—COMMUNICATIONS ACT AMENDMENTS

SHORT TITLE

SECTION 101. This Act may be cited as the "Communications Technical Amendments Act of 1982".

FINANCIAL INTERESTS OF MEMBERS AND EMPLOYEES OF FEDERAL COMMUNICATIONS COMMISSION

SECTION 102. Section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows:

"(b)(1) Each member of the Commission shall be a citizen of the United States.

"(2)(A) No member of the Commission or person employed by the Commission shall—

"(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

"(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

"(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

"(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this Act;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in telecommunications, manufacturing, or sales activities which are subject to regulation by the Commission.

"(B)(1) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of section 208 of title 18, United States Code. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

"(2) In any case in which the Commission exercises the waiver authority established in this subparagraph, the Commission shall publish notice of such action in the Federal Register and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver.

"(3) The Commission, in determining whether a company or other entity has a significant interest in telecommunications, manufacturing, or sales activities which are subject to regulation by the Commission, shall consider (without excluding other relevant factors)—

"(A) the revenues, investments, profits, and managerial efforts directed to the related telecommunications, manufacturing, or sales activities of the company or other entity involved, as compared to the other aspects of the business of such company or other entity;

"(B) the extent to which the Commission regulates and oversees the activities of such company or other entity;

"(C) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

"(D) the perceptions held by the public regarding the business activities of such company or other entity.

"(4) Members of the Commission shall not engage in any other business, vocation, profession, or employment while serving as such members.

"(5) Not more than three members of the Commission may be members of the same political party."

APPOINTMENT, TERMS OF OFFICE, SALARY, AND COMPENSATION OF MEMBERS OF COMMISSION

SEC. 103. (a) Section 4(c) of the Communications Act of 1934 (47 U.S.C. 154(c)) is amended—

(1) by striking out "The";

(2) by striking out "first appointed" and all that follows through "but their successors"; and

(3) by striking out "qualified" and inserting in lieu thereof "been confirmed and taken the oath of office".

(b) Section 4(d) of the Communications Act of 1934 (47 U.S.C. 154(d)) is amended to read as follows:

"(d) Each Commissioner shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule, payable in monthly installments. The Chairman of the Commission, during the period of his service as Chairman, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule."

(c) Section 4(f)(2) of the Communications Act of 1934 (47 U.S.C. 154(f)(2)) is amended by striking out "a legal assistant, an engineering assistant," and inserting in lieu thereof "three professional assistants".

(d) Section 4(g) of the Communications Act of 1934 (47 U.S.C. 154(g)) is amended by inserting "(1)" after the subsection designation, and by adding at the end thereof the following new paragraph:

"(2)(A) If—

"(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling Commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;

"(ii) such attendance and participation are in furtherance of the functions of the Commission; and

"(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting; then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses.

"(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

"(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

"(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year 1985."

(e) Section 4(k)(2) of the Communications Act of 1934 (47 U.S.C. 154(k)(2)) is amended by striking out "Provided, That the" and all that follows through "by such reports".

(f) Section 4(k) of the Communications Act of 1934 (47 U.S.C. 154(k)) is amended by

redesignating paragraph (4) and paragraph (5) as paragraph (3) and paragraph (4), respectively.

(g) Section 4(k)(4) of the Communications Act of 1934, as so redesignated in subsection (f), is amended by striking out "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget".

USE OF AMATEUR VOLUNTEERS FOR CERTAIN PURPOSES

SEC. 104. Section 4(f) of the Communications Act of 1934 (47 U.S.C. 154(f)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) The Commission, for purposes of preparing any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being prepared. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license.

"(B) The Commission, for purposes of administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being conducted. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license. Any person who owns a significant interest in, or is an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses, shall not be eligible to render any service under this paragraph.

"(C)(1) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the amateur radio service, may—

"(i) recruit and train any individual licensed by the Commission to operate an amateur station; and

"(ii) accept and employ the voluntary and uncompensated services of such individual.

"(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any amateur station operator organization.

"(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

"(i) the detection of improper amateur radio transmissions;

"(ii) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service; and

"(iii) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to

issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

"(DX)(1) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the citizens band radio service, may—

"(i) recruit and train any citizens band radio operator; and

"(ii) accept and employ the voluntary and uncompensated services of such operator.

"(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any citizens band radio operator organization. The Commission, in accepting and employing services of individuals under this subparagraph, shall seek to achieve a broad representation of individuals and organizations interested in citizens band radio operation.

"(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

"(i) the detection of improper citizens band radio transmissions;

"(ii) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service; and

"(iii) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

"(E) The authority of the Commission established in this paragraph shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(F) Any person who provides services under this paragraph shall not be considered, by reason of having provided such services, a Federal employee.

"(G) The Commission, in accepting and employing services of individuals under subparagraphs (A), (B), and (C), shall seek to achieve a broad representation of individuals and organizations interested in amateur station operation.

"(H) The Commission may establish rules of conduct and other regulations governing the service of individuals under this paragraph."

ORGANIZATION AND FUNCTIONING OF COMMISSION

SEC. 105. (a) Section 5(b) of the Communications Act of 1934 (47 U.S.C. 155(b)) is amended—

(1) by striking out "Within" and all that follows through "and from" and inserting in lieu thereof "From"; and

(2) by striking out "thereafter".

(b) Section 5 of the Communications Act of 1934 (47 U.S.C. 155) is amended by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(c) The first sentence of section 5(c)(1) of the Communications Act of 1934, as so re-

designated in subsection (b), is amended by striking out "three" and inserting in lieu thereof "two".

JURISDICTION OF COMMISSION

Sec. 106. Section 301 of the Communications Act of 1934 (47 U.S.C. 301) is amended—

- (1) by striking out "interstate and foreign";
- (2) by inserting "State," after "any" the third place it appears therein;
- (3) by inserting a comma after "Territory" the first place it appears therein; and
- (4) by inserting "State," after "same".

INTERFERENCE WITH ELECTRONIC EQUIPMENT

Sec. 107. (a)(1) The first sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by inserting "(1)" after "regulations", and by inserting before the period at the end thereof the following: "; and (2) establishing minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy".

(2) The last sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by striking out "shipment, or use of such devices" and inserting in lieu thereof "or shipment of such devices and home electronic equipment and systems, and to the use of such devices".

(3) Section 302(b) of the Communications Act of 1934 (47 U.S.C. 302(b)) is amended by striking out "ship, or use devices" and inserting in lieu thereof "or ship devices or home electronic equipment and systems, or use devices".

(4) Section 302(c) of the Communications Act of 1934 (47 U.S.C. 302(c)) is amended—

(A) in the first sentence thereof, by inserting "or home electronic equipment and systems" after "devices" each place it appears therein; and

(B) in the last sentence thereof, by inserting "and home electronic equipment and systems" after "Devices", by striking out "common objective" and inserting in lieu thereof "objectives", and by inserting "and to home electronic equipment and systems" after "reception".

(5) The heading for section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended to read as follows:

"INTERFERENCE WITH RADIO COMMUNICATIONS AND ELECTRONIC EQUIPMENT"

(b) Any minimum performance standard established by the Federal Communications Commission under section 302(a)(2) of the Communications Act of 1934, as added by the amendment made in subsection (a)(1), shall not apply to any home electronic equipment or systems manufactured before the date of the enactment of this Act.

QUALIFICATIONS OF STATION OPERATORS

Sec. 108. Section 303(1)(1) of the Communications Act of 1934 (47 U.S.C. 303(1)(1)) is amended—

(1) by striking out "such citizens" and all that follows through "qualified" and inserting in lieu thereof "persons who are found to be qualified by the Commission and who otherwise are legally eligible for employment in the United States"; and

(2) by striking out "in issuing licenses" and all that follows through the end thereof and inserting in lieu thereof the following: "such requirement relating to eligibility for employment in the United States shall not apply in the case of licenses issued by the Commission to (A) persons holding United States pilot certificates; or (B) persons holding foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such for-

elign government does not impose any similar requirement relating to eligibility for employment upon citizens of the United States".

GROUND FOR SUSPENSION OF LICENSES

Sec. 109. Section 303(m)(1)(A) of the Communications Act of 1934 (47 U.S.C. 303(m)(1)(A)) is amended by inserting ", or caused, aided, or abetted the violation of," after "violated".

LICENSING OF CERTAIN AIRCRAFT RADIO STATIONS AND OPERATORS

Sec. 110. (a) Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following new paragraph:

"(b) Notwithstanding the provisions of section 301(e), have authority, in any case in which an aircraft registered in the United States is operated (pursuant to a lease, charter, or similar arrangement) by an aircraft operator who is subject to regulation by the government of a foreign nation, to enter into an agreement with such government under which the Commission shall recognize and accept any radio station licenses and radio operator licenses issued by such government with respect to such aircraft."

(b) Section 301(e) of the Communications Act of 1934 (47 U.S.C. 301(e)) is amended by inserting "(except as provided in section 303(b))" after "United States".

REVISION OF LICENSE TERMS

Sec. 111. (a) Section 307 of the Communications Act of 1934 (47 U.S.C. 307) is amended by striking out subsection (c), and by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(b) Section 307(c) of the Communications Act of 1934, as so redesignated in subsection (a), is amended—

(1) by striking out "five years" the second place and the last place it appears therein and inserting in lieu thereof "ten years"; and

(2) by inserting after the second sentence thereof the following new sentence: "The term of any license for the operation of any auxiliary broadcast station or equipment which can be used only in conjunction with a primary radio, television, or translator station shall be concurrent with the term of the license for such primary radio, television, or translator station."

AUTHORITY TO OPERATE CERTAIN RADIO STATIONS WITHOUT INDIVIDUAL LICENSES

Sec. 112. (a) Section 307 of the Communications Act of 1934, as amended in section 11(a), is further amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any licensing requirement established in this Act, the Commission may by rule authorize the operation of radio stations without individual licenses in the radio control service and the citizens band radio service if the Commission determines that such authorization serves the public interest, convenience, and necessity.

"(2) Any radio station operator who is authorized by the Commission under paragraph (1) to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

"(3) For purposes of this subsection, the terms 'radio control service' and 'citizens band radio service' shall have the meanings given them by the Commission by rule."

(b) Section 303(n) of the Communications Act of 1934 (47 U.S.C. 303(n)) is amended by inserting after "any Act" the first place it appears therein the following: ", or which the Commission by rule has authorized to operate without a license under section 307(e)(1)."

AUTHORIZATION OF TEMPORARY OPERATIONS

Sec. 113. Section 309(f) of the Communications Act of 1934 (47 U.S.C. 309(f)) is amended—

- (1) by striking out "emergency" each place it appears therein and inserting in lieu thereof "temporary";
- (2) by striking out "one additional period" and inserting in lieu thereof "additional periods"; and
- (3) by striking out "ninety days" and inserting in lieu thereof "180 days".

RANDOM SELECTION SYSTEM FOR CERTAIN LICENSES AND PERMITS

Sec. 114. (a) Section 309(i)(1) of the Communications Act of 1934 (47 U.S.C. 309(i)(1)) is amended—

(1) by striking out "applicant" the first place it appears therein and inserting in lieu thereof "application"; and

(2) by striking out "the qualifications of each such applicant under section 308(b)" and inserting in lieu thereof "that each such application is acceptable for filing".

(b) Section 309(i)(2) of the Communications Act of 1934 (47 U.S.C. 309(i)(2)) is amended to read as follows:

"(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) and section 308(b). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

"(A) adopt procedures for the submission of all or part of the evidence in written form;

"(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

"(C) omit the determination required by subsection (a) with respect to any application other than the one selected pursuant to paragraph (1)."

(c)(1) Section 309(i)(3)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)(A)) is amended by striking out "groups" the first place it appears therein, and all that follows through the end thereof, and inserting in lieu thereof the following: "used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group."

(2) Section 309(i)(3) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph:

"(i) The term 'media of mass communications' includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(ii) The term 'minority group' includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders."

(d) Section 309(d)(4)(A) of the Communications Act of 1934 (47 U.S.C. 309(d)(4)(A)) is amended by striking out "effective date of this subsection" and inserting in lieu thereof "date of the enactment of the Communications Technical Amendments Act of 1982".

AGREEMENTS RELATING TO WITHDRAWAL OF CERTAIN APPLICATIONS

SEC. 115. (a) Section 311(c)(3) of the Communications Act of 1934 (47 U.S.C. 311(c)(3)) is amended by striking out "the agreement" the second place it appears therein and all that follows through the end thereof and inserting in lieu thereof the following: "(A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its application for the purpose of reaching or carrying out such agreement."

(b) Section 311(d)(1) of the Communications Act of 1934 (47 U.S.C. 311(d)(1)) is amended by striking out "two or more" and all that follows through "station" and inserting in lieu thereof the following: "an application for the renewal of a license granted for the operation of a broadcasting station and one or more applications for a construction permit relating to such station."

(c) Section 311(d)(3) of the Communications Act of 1934 (47 U.S.C. 311(d)(3)) is amended by striking out "license".

WILLFUL OR REPEATED VIOLATIONS

SEC. 116. Section 312 of the Communications Act of 1934 (47 U.S.C. 312) is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section:

"(1) The term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States.

"(2) The term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

APPLICABILITY OF CONSTRUCTION PERMIT REQUIREMENTS TO CERTAIN STATIONS

SEC. 117. Section 319(a) of the Communications Act of 1934 (47 U.S.C. 319(a)) is amended by striking out "the construction of which is begun or is continued after this Act takes effect."

AUTHORITY TO ELIMINATE CERTAIN CONSTRUCTION PERMITS

SEC. 118. Section 319(d) of the Communications Act of 1934 (47 U.S.C. 319(d)) is amended to read as follows:

"(d) A permit for construction shall not be required for Government stations, amateur stations, or mobile stations. A permit for construction shall not be required for public coast stations, privately owned fixed microwave stations, or stations licensed to common carriers, unless the Commission determines that the public interest, convenience, and necessity would be served by requiring such permits for any such stations. With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction. With respect to any other station or class of stations, the Commission shall not waive such requirement unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver."

PRIVATE LAND MOBILE SERVICES

SEC. 119. (a) Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et

seq.) is amended by adding at the end thereof the following new section:

"PRIVATE LAND MOBILE SERVICES"

"Sec. 331. (a) In taking actions to manage the spectrum to be made available for use by the private land mobile services, the Commission shall consider, consistent with section 1 of this Act, whether such actions will—

"(1) promote the safety of life and property;

"(2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands;

"(3) encourage competition and provide services to the largest feasible number of users; or

"(4) increase interservice sharing opportunities between private land mobile services and other services.

"(b)(1) The Commission, in coordinating the assignment of frequencies to stations in the private land mobile services and in the fixed services (as defined by the Commission by rule), shall have authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

"(2) The authority of the Commission established in this subsection shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(3) Any person who provides assistance to the Commission under this subsection shall not be considered, by reason of having provided such assistance, a Federal employee.

"(4) Any advisory coordinating committee which furnishes assistance to the Commission under this subsection shall not be subject to the provisions of the Federal Advisory Committee Act.

"(c)(1) For purposes of this section, private land mobile service shall include service provided by specialized mobile radio, multiple licensed radio dispatch systems, and all other radio dispatch systems, regardless of whether such service is provided indiscriminately to eligible users on a commercial basis, except that a land station licensed in such service to multiple licensees or otherwise shared by authorized users (other than a nonprofit, cooperative station) shall not be interconnected with a telephone exchange or interexchange service or facility for any purpose, except to the extent that (A) each user obtains such interconnection directly from a duly authorized carrier; or (B) licensees jointly obtain such interconnection directly from a duly authorized carrier.

"(2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be deemed a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982.

"(3) No State or local government shall have any authority to impose any rate or entry regulation upon any private land mobile service, except that nothing in this jurisdiction may be construed to impair such jurisdiction with respect to common carrier stations in the mobile service."

"(b)(1) Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end thereof the following new paragraph:

"(gg) 'Private land mobile service' means a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation."

(2) Section 3(n) of the Communications Act of 1934 (47 U.S.C. 153(n)) is amended to read as follows:

"(n) 'Mobile service' means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes both one-way and two-way radio communication services."

NOTICES OF APPEAL

SEC. 120. Section 402(d) of the Communications Act of 1934 (47 U.S.C. 402(d)) is amended—

(1) by striking out "Commission" the first place it appears therein and inserting in lieu thereof "appellant";

(2) by striking out "date of service upon it" and inserting in lieu thereof "filing of such notice";

(3) by striking out "and shall thereafter" and all that follows through "Washington"; and

(4) by striking out "Within thirty days after the filing of an appeal, the" and inserting in lieu thereof "The".

COMPUTATION OF CERTAIN FILING DEADLINES

SEC. 121. The last sentence of section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "public notice" and all that follows through the end thereof and inserting in lieu thereof the following: "the Commission gives public notice of the order, decision, report, or action complained of."

EFFECTIVE DATE OF CERTAIN COMMISSION ORDERS

SEC. 122. Section 408 of the Communications Act of 1934 (47 U.S.C. 408) is amended by striking out "within such reasonable time" and all that follows through the end thereof and inserting in lieu thereof the following: "thirty calendar days from the date upon which public notice of the order is given, unless the Commission designates a different effective date. All such orders shall continue in force for the period of time specified in the order or until the Commission or a court of competent jurisdiction issues a superseding order."

APPLICATION OF FORFEITURE REQUIREMENTS TO CABLE TELEVISION SYSTEM OPERATORS

SEC. 123. The second sentence of section 503(b)(5) of the Communications Act of 1934 (47 U.S.C. 503(b)(5)) is amended by inserting "or is a cable television system operator" before the period at the end thereof.

FORFEITURE OF COMMUNICATIONS DEVICES

SEC. 124. Title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) is amended by adding at the end thereof the following new section:

"FORFEITURE OF COMMUNICATIONS DEVICES"

"Sec. 510. (a) Any electronic, electromagnetic, radio frequency, or similar device, or component thereof, used, sent, carried, manufactured, assembled, possessed, offered for sale, sold, or advertised with willful and knowing intent to violate section 301 or 302, or rules prescribed by the Commission under such sections, may be seized and forfeited to the United States.

"(b) Any property subject to forfeiture to the United States under this section may be

seized by the Attorney General of the United States upon process issued pursuant to the supplemental rules for certain admiralty and maritime claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made if the seizure is incident to a lawful arrest or search.

"(c) All provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(2) the disposition of such property or the proceeds from the sale thereof;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims with respect to such forfeitures;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section, except that such seizures and forfeitures shall be limited to the communications device, devices, or components thereof.

"(d) Whenever property is forfeited under this section, the Attorney General of the United States may forward it to the Commission or sell any forfeited property which is not harmful to the public. The proceeds from any such sale shall be deposited in the general fund of the Treasury of the United States."

EXEMPTION APPLICABLE TO AMATEUR RADIO COMMUNICATIONS

Sec. 125. The last sentence of section 605 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking out "broadcast or";

(2) by striking out "amateurs or others" and inserting in lieu thereof "any station";

(3) by striking out "or" the last place it appears therein;

(4) by inserting ", aircraft, vehicles, or persons" after "ships"; and

(5) by inserting before the period at the end thereof the following: ", or which is transmitted by an amateur radio station operator or by a citizens band radio operator".

TECHNICAL AMENDMENTS

Sec. 126. (a) Section 304 of the Communications Act of 1934 (47 U.S.C. 304) is amended by striking out "ether" and inserting in lieu thereof "electromagnetic spectrum".

(b) Section 402(a) of the Communications Act of 1934 (47 U.S.C. 402(a)) is amended by striking out "Public Law" and all that follows through the end thereof and inserting in lieu thereof "chapter 158 of title 28, United States Code".

(c)(1) Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "rehearing" each place it appears therein and inserting in lieu thereof "reconsideration".

(2) The heading for section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "REHEARINGS" and inserting in lieu thereof "RECONSIDERATIONS".

AMENDMENT TO OTHER LAW

Sec. 127. Section 1114 of title 18, United States Code, is amended by inserting after "law enforcement functions," the following: "or any officer or employee of the Federal Communications Commission performing investigative, inspection, or law enforcement functions."

Sec. 128. Section 224 of the Communications Act of 1934 (47 U.S.C. 224) is amended by striking out subsections (d) and (e).

Amend the title so as to read: "An Act to amend the Communications Act of 1934, and for other purposes."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 1250) was agreed to.

The PRESIDING OFFICER. There being no further amendments, the question is on engrossment of the amendment and third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. BAKER. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Madam President, that completes the routine matters that are cleared on this side and I am prepared to yield the floor.

Mr. ROBERT C. BYRD. I yield the floor.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

HABEAS CORPUS REFORM

Mr. NUNN. Madam President, today marks the beginning of the fourth month during which Senator CHILES and I have been daily speaking on the Senate floor in support of strong anti-crime legislation. Many of our comments have been directed to the urgent need for habeas corpus reform. This morning I am particularly pleased to rise as cosponsor and in strong support of legislation, introduced by Senator THURMOND and placed on the Senate Calendar yesterday morning, addressing that same area of criminal law reform, one which is, by all reports, essential to the continued viability of our judicial system. Both Senator CHILES and I know only too well the extent to which our career criminals have learned to manipulate current habeas corpus procedure to their benefit.

In introducing S. 2543, the Crime Control Act of 1982, on May 19, 1982, Senator CHILES and I took care to include proposals for habeas corpus reform similar to those which Senator THURMOND has now offered. In speaking in support of S. 2543, we have, over the past 3 months, cited numerous specific examples of the dire need for reform of habeas corpus procedures. The cases which we have described in great detail to the Senate clearly establish that the writ of habeas corpus has been, and continues to be, gravely distorted by serious abuse in the hands of our criminal offenders. I am encouraged that the bill which Senator THURMOND has now introduced speaks to precisely the same problems

which have caused us such great concern for some time now.

The writ of habeas corpus, as originally conceived in medieval English law, provided a means of reviewing the detention of an individual held under executive, and not judicial, authority. It was never intended to be used to review in any manner, detention as a result of a judicial decision. It was executive, and not judicial, abuse of power that the Founding Fathers had in mind when they specifically prohibited the "suspension" of the writ of habeas corpus in article I, section 9 of the Constitution. In fact, State prisoners were not specifically granted any right to Federal habeas corpus relief until the enactment of the Habeas Corpus Act of 1867 by Congress, despite the earlier constitutional provision.

Since 1867, experience has shown that the use of the writ now bears little resemblance to the purpose for which it was originally intended. Rather than act as a bulwark of freedom for out citizens, it has been misused as a seemingly endless "appeal" device by convicted felons. Frequently, prisoners wait many years and, after witnesses have died, file a habeas corpus action seeking to set aside the original judgment and sentence. In such cases, the issue raised was often not raised and answered in the original record, and the Government is simply incapable of refuting the prisoner's testimony.

In other cases, prisoners file a series of seemingly endless petitions, wasting precious judicial resources on the needless re litigation of issues clearly and fairly decided years before. In the absence of clear legislative directives, the Federal courts often rehear and reconsider questions properly answered in the State court systems.

A system which encourages these types of abuse can hardly be said to contribute to public confidence in our criminal laws. Most of us agree with those criminal justice experts who tell us that the greatest single deterrent to crime is swift and sure punishment for the guilty. Yet our system too often fails to deliver.

One reason, as Chief Justice Burger pointed out in his recent speech to the American Bar Association, is our inability to reach—at some point—finality of judgment. Judge Coleman of the Fifth Circuit Court of Appeals has stated:

The (court) decisions say that the writ may not be used as a second appeal, but from experience the outlaws know better. Instead of being a bulwark of freedom for the citizen, it has been allowed to become a last, and too often a mere, refuge for those who have respected neither the law nor the Constitution.

It is a sad comment, indeed, on our criminal justice system that blatant abuse of the writ of habeas corpus has resulted in two of the most serious shortcomings within that system: Needless delay and a lack of certainty